

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Lloyd Hinn, Jr.,
Appellant,

v.

Pottawattamie County Board of Review,
Appellee.

ORDER

Docket No. 13-78-0188
Parcel No. 7443-06-426-001

On February 21, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Lloyd Hinn, Jr. of HHB, Inc. Property Tax Consultants represented Hari Krupa, Inc. and requested a written consideration. Assistant County Attorney Leanne A. Gifford is counsel for the Board of Review. The Appeal Board now, having examined the entire record and being fully advised, finds:

Findings of Fact

Lloyd Hinn, Jr. protested on behalf of Hari Krupa, Inc. the owner of property located at 1000 Woodbury Avenue, Council Bluffs, Iowa. The real estate was classified commercial on the January 1, 2013, assessment and valued at \$2,000,000 representing \$285,200 in land value and \$1,714,800 in improvement value. According to the record, the property is doing business as AmericInn. It is a two-story building, built in 1986 with a one-story indoor pool addition in 1999. The property has 35,961 square feet of gross building area and 88 rooms. It has typical hotel accoutrements such as paved parking area, yard lights, fencing, and signage. The site is 1.98 acres.

Hinn protested the assessment to the Pottawattamie County Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). He asserted the correct fair market value is \$765,500. The Board of Review denied the protest.

Hinn then appealed to this Board.

Hinn submitted several documents to the Board of Review in support of a claim that the property is over assessed. However, we find much of the evidence is not relevant and does not establish a fair market value of the subject property as of January 1, 2013. Further, Hinn provided limited explanation of the documents. The following is a list of the evidence in the certified record.

Assigned Exhibit No.	Description of Evidence	Number of Pages
1	Letter to Board of Review	1
2	Property Record Card of 3511 S 84th St., Omaha, NE	3
3	B/W picture of subject property	1
4	B/W picture of 3511 S 84th St., Omaha, NE	1
5	Property Record Card of Subject	7
6	Tax property information for Subject Property	2
7	HHB Fee Agreement for Subject Property Assessment representation	2
8	2011 Income Analysis for Subject Property	2
9	2011/2012 Revenue and Expenses of Subject property	2
10	2012 Income Analysis	2
11	2012 US Tax Return for Subject Property	1
12	2010 Income Analysis for Subject Property	2
13	2010 Revenues and Expenses of Subject property	2
14	Nebraska Tax Equalization Order 10C-254	7
15	Nebraska Tax Equalization Order 11C-134	11
16	Review Grid Comparison with three Comparable Properties	1
17	Excerpt from The Valuation of Hotels and Motels for Assessment Purposes	56

Hinn submitted a letter to the Board of Review explaining his position. (Exhibit 1). He believes the subject property should be valued at \$9223 per-room based on the assessment of another property he claims is similar, located at 3511 S 84th Street, Omaha, Nebraska. Hinn explains this property is an eighty-room Motel 6, and its 2010 assessment of \$1,000,000, was reduced in 2011 to \$737,840. We note the 2012 assessment of this property was \$1,734,400, but the 2013 assessment was not provided. (Exhibit 2).

Hinn also provided a Review grid, which included three properties located in Nebraska that he considered comparable. (Exhibit 16). There is limited information about these properties. He asserts the assessed values-per-room for the properties range from \$9223 to \$19,790. Regardless, the comparison of assessments of other properties is not sufficient evidence of the market value. Assessments of comparable properties could be used for an equity claim; however, those properties must be located in the same taxing jurisdiction.

Hinn also provided revenue and expense statements from 2010, 2011, and 2012. (Exhibits 9 & 13). A basic income analysis for each year of revenue/expense information was also included. (Exhibits 8, 10 & 12). We summarize this information in the following chart.

Year	Net Operating Income (NOI)	Loaded Capitalization Rate	Value (Excluding FF&E)
2010	\$332,128.20	16.40%	\$1,527,171.95
2011	\$254,530.47	16.40%	\$1,054,015.06
2012	\$291,660.20	16.40%	\$1,280,415.85

It appears that actual rates were used in the development of this analysis and there is no indication the actual rates are equal to market rates. Additionally, there is no explanation of how Hinn determined the capitalization rates or the FF&E of \$6000 per-room for each year; or what the final conclusion of value is for the January 1, 2013, assessment based on this information. For these reasons, we give this income analysis no consideration.

We find the additional evidence Hinn submitted, such as the Nebraska Tax Equalization Board decisions and the excerpt “The Valuation of Hotels and Motels for Assessment Purposes” by Stephen Rushmore and Karen E. Rubin, is insufficient evidence in determining the fair market value of the subject property. (Exhibits 14-15 & 17). In his letter to the Board of Review, Hinn states the reason he provided the Rushmore/Rubin excerpt is that he believes it demonstrates the cost approach should not be used to determine the assessed value, which is what he believes the assessor’s office relied on.

However, we note it is Hinn's to show the property is over assessed, and Iowa law recognizes cost as an alternative method of valuation.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa

1995). The sales-comparison method is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 779 (Iowa 2009); *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). “[A]lternative methods to the comparable sales approach to valuation of property cannot be used when *adequate* evidence of comparable sales is available to *readily* establish market value by that method.” *Compiano*, 771 N.W.2d at 398 (emphasis added). “Thus, a witness must first establish that evidence of comparable sales was not available to establish market value under the comparable-sales approach before the other approaches to valuation become competent evidence in a tax assessment proceeding.” *Id.* (citing *Soifer*, 759 N.W.2d, at 782); *Carlson Co. v. Bd. of Review of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997). Before relying on the income approach or other factors, a party or witness must first establish that comparable sales are not available to value the property. *Compiano*, 771 N.W.2d at 397-99; § 441.21(2).

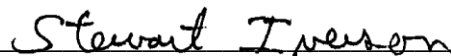
Hinn provided the assessment of a hotel property located in Omaha that he believes is comparable to the subject and asserts these assessments support a lower valuation of the subject property on a per-room basis. He also considered three additional assessments of hotels in Nebraska; however there was no detailed evidence of these properties or any other analysis in the record. Regardless, comparing the assessed values per room not appropriate evidence for a market value claim. Lastly, Hinn included an income approach, but it was limited in scope and did not appear to determine if the actual income and expenses were similar to market income and expenses. Further, the evidence lacked explanation and, ultimately, Hinn offered no conclusion of market value for the January 1, 2013, assessment based on the evidence. Hinn did not offer any adjusted comparable sales or an appraisal. Ultimately, the record does not show that the property is assessed for more than authorized by law.

THE APPEAL BOARD ORDERS the 2013 assessment of the property located at 1000 Woodbury Avenue, Council Bluffs, Iowa, is affirmed.

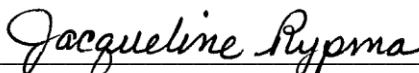
Dated this 15th day of April 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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